



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,456	03/01/2002	Hermann W. Rutsch	344/1/050	6667
170	7590	09/08/2005	EXAMINER	
RICHARD M. GOLDBERG 25 EAST SALEM STREET SUITE 419 HACKENSACK, NJ 07601			OMGBA, ESSAMA	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/087,456

Applicant(s)

RUTSCH, HERMANN W.

Examiner

Essama Omgba

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2 and 15-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 15-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. The indicated allowability of claim 25 is withdrawn in view of Applicant's Admitted Prior Art. Rejections based thereon follow.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 2, 15-25, 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 2 and 3, the phrase "a supporting element of plastic of adjustable curvature at rods of a lattice mat" is not clear.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 15, 17, 18, 24-26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA).

With regards to claims 1, 2 and 26, Applicant, at pages 1 and 2 of the specification to be known as AAPA, discloses a method of producing a lordosis support

Art Unit: 3726

with a supporting element of plastic of adjustable curvature, the supporting element connected to rods of a lattice mat formed by longitudinal and transverse rods wherein the supporting element is fastened in the region of its upper and lower edges at the transverse rods of the lattice mat which reinforce the backrest in the area. Although the supporting element and the transverse rods are produced separately and fastened together, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fastened the supporting element to the transverse rods by molding the supporting element so as to encapsulate the transverse rods since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

For claim 15, Applicant should note that it is within the general knowledge of one of ordinary skill in the art to appropriately position the rods in a mold.

For claims 17 and 24, Applicant should note that connecting the transverse rods and the longitudinal rods in the mold is an obvious matter of design choice wherein no stated problem is solved or unexpected results obtained in connecting the transverse rods and the longitudinal rods in the mold versus connecting them before introducing them in the mold.

For claim 25, it is known to fasten the transverse rods to the longitudinal rods by bending ends of the transverse rods around the longitudinal rods into one of eyelets and hooks as attested by AAPA.

For claims 28 and 29, Applicant should note that introducing the longitudinal rods in the mold when embedding the transverse rods in the supporting element is an obvious matter of design choice wherein no stated problem is solved or unexpected results obtained in introducing the longitudinal rods in the mold when embedding the transverse rods in the supporting element versus connecting the transverse rods to the longitudinal rods after the transverse rods have been embedded in the supporting element.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Hosoi (JP 62-92817).

AAPA discloses a method of producing a lordosis support as shown above except for the rods being introduced in the mold as straight rod endless material. However Hosoi teaches introducing parts 11 in continuous length in a mold, see abstract. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have introduced the rods in the method of AAPA as rods of endless material, in light of the teachings of Hosoi, in order to continuously mold the support.

7. Claims 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA/Hosoi as applied to claim 18 above, and further in view of JP 01214417 (JP'417).

AAPA/Hosoi discloses a method of producing a lordosis support as shown above except for bending the longitudinal in the mold. However JP'417 teaches such mold with a bending mechanism, see abstract. Therefore it would have been obvious to one of

Art Unit: 3726

ordinary skill in the art at the time the invention was made, to have used a bending mold in the method of AAPA/Hosoi, in light of the teachings of JP'417, in order to minimize the setup for producing the lordosis support. Applicant should also note that it appears as if the insert 12 is bend in the mold in the method of Hosoi.

For claim 27, Applicant should note that it is within the general knowledge of one of ordinary skill in the art to appropriately hold the longitudinal rods in the mold to prevent movement of the rods.

8. Claims 1, 2, 15, 17, 18, 24-26, 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Vermilye (US Patent 4,722,821) or Yamada et al. (US Patent 5,609,652).

With regards to claims 1, 2 and 26, Applicant, at pages 1 and 2 of the specification to be known as AAPA, discloses a method of producing a lordosis support with a supporting element of plastic of adjustable curvature, the supporting element connected to rods of a lattice mat formed by longitudinal and transverse rods wherein the supporting element is fastened in the region of its upper and lower edges at the transverse rods of the lattice mat which reinforce the backrest in the area. AAPA does not disclose the supporting element being molded on the rods of the lattice mat, however it is known to assemble plastic molded part that were previously fastened to reinforcing metal frames using various mechanical fastening means by directly injection molding the plastic part on the metal frame as taught by Vermilye or Yamada et al., see column 1, lines 60-68 and column 2, lines 1-11 and 31-42 of Vermilye or column 1, lines 52-67 and column 2, lines 1-43 of Yamada et al. Therefore it would have been obvious

to one of ordinary skill in the art at the time the invention was made, to have embedded the rods of AAPA in the supporting element during injection molding of the supporting element, in light of the teachings of Vermilye or Yamada et al., in order to reduce cost in manufacturing the lordosis support. Applicant should note that the lordosis support is considered an initiating element for active head supports of a vehicle seat.

For claim 15, Applicant should note that it is within the general knowledge of one of ordinary skill in the art to appropriately position the rods in a mold.

For claims 17 and 24, Applicant should note that connecting the transverse rods and the longitudinal rods in the mold is an obvious matter of design choice wherein no stated problem is solved or unexpected results obtained in connecting the transverse rods and the longitudinal rods in the mold versus connecting them before introducing them in the mold as taught by Vermilye or Yamada et al.

For claim 25, it is known to fasten the transverse rods to the longitudinal rods by bending ends of the transverse rods around the longitudinal rods into one of eyelets and hooks as attested by AAPA.

For claims 28 and 29, Applicant should note that introducing the longitudinal rods in the mold when embedding the transverse rods in the supporting element is an obvious matter of design choice wherein no stated problem is solved or unexpected results obtained in introducing the longitudinal rods in the mold when embedding the transverse rods in the supporting element versus connecting the transverse rods to the longitudinal rods after the transverse rods have been embedded in the supporting element.

Art Unit: 3726

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA/Vermilye/Yamada et al. as applied to claim 1 above, and further in view of Hosoi. AAPA/Vermilye/Yamada et al. discloses a method of producing a lordosis support as shown above except for the rods being introduced in the mold as straight rod endless material. However Hosoi teaches introducing parts 11 in continuous length in a mold, see abstract. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have introduced the rods in the method of AAPA/Vermilye/Yamada et al. as rods of endless material, in light of the teachings of Hosoi, in order to continuously mold the support.

10. Claims 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA/Vermilye/Yamada et al./Hosoi as applied to claim 18 above, and further in view of JP'417.

AAPA/Vermilye/Yamada et al./Hosoi discloses a method of producing a Lordosis support as shown above except for bending the longitudinal in the mold. However JP'417 teaches such mold with a bending mechanism, see abstract. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used a bending mold in the method of AAPA/Vermilye/Yamada et al./Hosoi, in light of the teachings of JP'417, in order to minimize the setup for producing the Lordosis support. Applicant should also note that it appears as if the insert 12 is bend in the mold in the method of Hosoi.



For claim 27, Applicant should note that it is within the general knowledge of one of ordinary skill in the art to appropriately hold the longitudinal rods in the mold to prevent movement of the rods.

***Allowable Subject Matter***

11. Claims 20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

12. Applicant's arguments with respect to claims 1, 2, 15-19 and 24-26 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

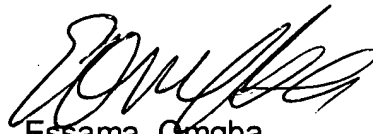
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3726

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Essama Omgba  
Primary Examiner  
Art Unit 3726

eo  
September 1, 2005